

Appln. No. 10/071,684  
Amendment dated October 6, 2004  
Reply to Office Action mailed July 6, 2004

### REMARKS

Reconsideration is respectfully requested.

Claims 1 through 10 and 15 through 23 remain in this application. Claims 11 through 14 were previously cancelled. No claims are currently withdrawn. Claim 28 has been added.

#### Part 1 of the Office Action

Claims 7 through 10 have been rejected under 35 U.S.C. §112 (second paragraph) as being indefinite.

The above amendments to the claims are believed to clarify the requirements of the rejected claims, especially the particular points identified in the Office Action.

Withdrawal of the §112 rejection of claims 7 through 10 is therefore respectfully requested.

#### Part 2 of the Office Action

Claims 7 through 10 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Malzacher (U.S. Patent No. 4,588,142) in view of Pitman et al (U.S. Patent No. 5,486,084).

Claim 7, particularly as amended, requires "control means for controlling the supply of power from a power source to the lifting assembly, the control means including a housing for mounting at least one control thereon, the housing is movably mounted on the trailer *to permit swinging movement of the housing between a storage position at a first location and an operational position at a second location*" (emphasis added). This feature of the invention, described in the specification at page 19 and shown in Figures 14 and 15, permits the operator to operate the controls from various positions adjacent to the trailer, including behind the trailer, such as adjacent to the cable guiding means of the invention so that the user can

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manipulate the cable as it is being loaded and unloaded while also operating the controls.

However, the Pitman patent describes a control station at col. 4, lines 10 through 14 (emphasis added):

As shown in FIG. 2, the apparatus also includes a control station 18 which may be rotated about a vertical axis to allow the operator to face in any one of a number desire direction when operating the apparatus.

Thus, the Pitman patent describes a control station that simply rotates about a vertical axis, and does not swing in a manner that changes the location of the control station, as Pitman clearly lacks any structure that would enable the control station to move in such a manner. Further, the Pitman control station clearly remains above the vehicle as it rotates, and thus does not move from a position above the vehicle as it rotates. It is therefore submitted that the control station of Pitman would not lead one of ordinary skill in the art to the claimed housing "movably mounted on the trailer to permit swinging movement of the housing between a storage position and an operational position".

Further, claim 8, which depends from claim 7, requires "wherein the second location of the operational position is characterized by a portion of the housing extending rearwardly of the back end of the trailer and the first location of the storage position is characterized by the housing being positioned above the trailer". Clearly, the control station of the Pitman apparatus is not capable of being positioned "rearwardly of the back end of the trailer", and therefore it is submitted that Pitman could not lead one of ordinary skill in the art to the requirements of claim 8.

Claim 10 requires "wherein the control means further comprises a pivot mount pivotally connecting the housing to the trailer and having a pivot axis about which the housing swings between the first location and the second location". The Pitman patent lacks anything suggesting a pivot arm

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meeting the requirements of claim 10, and therefore claim 10 is submitted to be allowable over the Pitman patent.

Added claim 28 requires "wherein the first location of the storage position is further characterized by the housing being positioned over the trailer, and the second location of the operational position is further characterized by the housing being positioned at a location that is not above the trailer". As noted above, the control station of Pitman is incapable of swinging outward from the vehicle, and therefore Pitman cannot lead one of ordinary skill in the art to the claimed invention.

Withdrawal of the §103(a) rejection of claims 7 through 10 is therefore respectfully requested.

### Part 3 of the Office Action

Claims 18 through 20 and 26 through 27 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Reynolds et al (U.S. Patent No. 4,148,445) in view of Pierce (U.S. Patent No. 4,796,826).

Claim 18, particularly as amended, requires "each of the support arms being pivotally mounted on the trailer such that the support arms are pivotable between a transport position and a retrieve position, the transport position being characterized by the elongate pole being positioned *over the deck of the trailer and forward of the back end of the trailer*, the retrieve position being characterized by the elongate pole being positioned behind the back end of the trailer" (emphasis added).

It is alleged in the Office Action that the Pierce patent shows the claimed retrieve and transport positions of the applicant's invention, but it is noted that the Pierce patent shows a rod supporting a spool that is always positioned behind the bed 32 of the truck. Note that in Figure 3 of the Pierce patent, in which the rear arms 50 are in their forward-most position, the rod is located behind the deck 32 and not over the deck 32 and forward

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of the back end of the trailer. This is also evident from Figures 9 through 11 of Pierce, which illustrate the path of movement of the rear arms. It is therefore submitted that the Pierce patent thus could not lead one of ordinary skill in the art to the claim 18 requirement of a transport position in which "the elongate pole [is] positioned above the deck of the trailer" and a retrieve position in which "the elongate pole [is] positioned behind the back end of the trailer", since in the Pierce patent, the rod on arm 50 is always behind the bed 32 of the truck. In contrast, the Reynolds patent shows the shaft 12 always being positioned above the bed 20 of its truck.

Withdrawal of the §103(a) rejection of claims 18 through 20 and 26 through 27 is therefore respectfully requested.

**Part 4 of the Office Action**


Claims 1 through 6, 15 through 17 and 21 through 25 are allowed.

**CONCLUSION**

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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